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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,353	12/11/2001	R. Terry K. Baker	1.902.16	8422
26000	7590	12/10/2003	EXAMINER	
HENRY E. NAYLOR & ASSOCIATES			HENDRICKSON, STUART L	
P.O. BOX 86060			ART UNIT	
BATON ROUGE, LA 70879-6060			PAPER NUMBER	

1754

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

215353

Applicant(s)

Baker

Examiner

Wendikson

Group Art Unit

1704

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 12/1/21
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-14 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 1-2 is/are allowed.
- ☒ Claim(s) 8-10, 13, 14 is/are rejected.
- ☒ Claim(s) 11, 12 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9, 13, 14 are rejected under 35 U.S.C. 103(a) as obvious over Moy et al. 6143689.

Moy teaches in column 6 and 11 making carbon nanotubes from CO and Fe on Mg. While not describing the product as multifaceted, it is noted that any imperfection in the cylinder would be a 'facet'. Thus, no patentable difference is seen, noting that the temperature (600) and catalyst are the same. The reference does not exemplify using H<sub>2</sub> and CO, but choosing them together is an obvious expedient to optimize fiber formation by suppressing graphite, as hydrogen is well known to do in nanotube synthesis.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moy as applied to claims 8, 9, 13, 14 above, and further in view of Rodriguez '951.

Moy does not teach Co, however Rodriguez does as an equivalent to Fe in column 5, in a similar process. Using Co as a promoter in the Moy process is an obvious expedient to gain its cumulative effect; In re Kerkhoven 205 USPQ 1069.

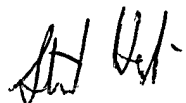
*It is noted that claims 11, 12 should depend upon claim 1.*

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539 or 571-272-1351.

A handwritten signature in black ink, appearing to read 'Stu Hendrickson', is positioned above the printed name.

Stuart Hendrickson  
examiner Art Unit 1754